

Sec. 5.3082. (PBD) planned block development overlay district.

A. *Purpose.* To capitalize on additional opportunities offered at larger scales of development, flexibility in certain land-use and development standards is available upon recommendation of the Planning Commission and express approval of City Council through the PBD overlay district.

B. *Area requirements:* Each PBD overlay district shall include a minimum contiguous land area of sixty thousand (60,000) square feet in the RS subdistrict and one hundred thousand (100,000) square feet in other underlying subdistricts, including intervening streets and alleys, and shall have no dimension less than one hundred twenty-two (122) feet. The net lot area in a PBD project shall include, for the purposes of calculating the minimum land area and allowable building gross floor area, property above or below dedicated right-of-way held either in ownership or as an easement, provided that such holdings are developed and provide pedestrian linkage acceptable to the city.

C. *Status.* Adoption of a PBD overlay district proposal shall be by amendment to the zoning district map, but the ordinance amendment shall not alter the use regulations or development standards of the underlying subdistrict except as specifically permitted below.

D. *Allowable modifications to use regulations and development standards.* Available FAR and height bonuses shall be as defined in schedule B (section 5.3060). The following modifications in use regulations and development standards may be approved as part of PBD overlay district:

1. Allowable floor area may be transferred between parcels within the same subdistrict in a PBD overlay district proposal provided that a legal instrument satisfactory to the city attorney shall be recorded limiting the building floor area on parcels from which floor area is transferred.
2. Regulations for specific use classifications may be modified by the development plan text to accommodate appropriately sized accessory uses.
3. Site development standards, not including base FAR and required parking spaces, may be modified by the development plan text or map, provided that the maximum allowable heights shall not exceed the maximums specified in schedule B (section 5.3060).

E. *Application for designation.*

1. A proposed amendment to create a PBD overlay district may be initiated by seventy-five (75) percent of the owners of the land area within the boundaries of the proposed PBD, by the city Planning Commission, or by the City Council, as prescribed by section 1.300.
2. An application initiated by property owners shall include:
 - a. A map indicating the proposed boundaries for the PBD overlay district; the property of participating type designations.
 - b. Development plan consisting of a map and explanatory material as may be necessary to delineate land uses and locations, existing and projected building types and schematic designs, height, FAR (including any proposals for transfer of FAR), site development standards, existing and proposed open space, circulation, traffic impacts, on-site and off-site parking and any other pertinent information.
 - c. A cultural improvements component which conforms with the provisions of the downtown cultural improvements ordinance and which describes artworks, cultural facilities and cultural programs included in the project.
 - d. A comparison between underlying subdistrict regulations and standards and any proposed modified regulations and standards, together with resulting impacts.
 - e. A statement of the reasons for any requested modifications to regulations and standards, and a description of proposed means of mitigating any adverse effects.
 - f. A three-dimensional model, photomontage, or computer-generated perspective drawings depicting the relationship between proposed buildings and existing buildings within three hundred (300) feet of the proposed PBD district boundaries.

F. *Adoption of PBD overlay district and development plan:* The city Planning Commission shall hold a public hearing on a proposed application as provided for in sections 1.604 and 1.605. Prior to the hearing, the Development Review Board shall make a recommendation on any proposed modifications to section 5.3060,

schedule B, site development standards, including any additional regulations which apply. After receiving the Development Review Board's recommendation, the Planning Commission shall recommend, and the City Council shall consider for adoption, an amendment creating a PBD overlay district only after making the following findings:

1. That the development plan is consistent with the adopted downtown plan and other applicable policies, and that it is compatible with development in the area it will directly affect.
2. That the development plan contributes additionally, beyond the underlying regulations, to the urban design objectives articulated for downtown, and that deviations from the regulations that otherwise would apply are justified by compensating benefits of the development plan.
3. That the development plan includes adequate provisions for utilities, services, and emergency vehicle access, and, if warranted, connections between underground parking facilities.
4. That projected traffic generated by the development plan will not exceed the capacity of affected streets.
5. That the development plan will not significantly increase solar shading of adjacent land in comparison with development under prevailing regulations.

(Ord. No. 1796, 11-5-85; Ord. No. 1992, § 1, 1-5-88; Ord. No. 1996, § 1, 2-1-88; Ord. No. 3225, § 1, 5-4-99)

Sec. 5.3083. Cultural improvements program.

A. Purpose. The City Council finds as follows:

- [1.] That the continued vitality of the downtown district is essential to the economic, social, and aesthetic well-being of the City of Scottsdale;
- [2.] That downtown Scottsdale has an established artistic and cultural component, based on elements including the Scottsdale Center for the Arts, the many art galleries and a variety of public activities;
- [3.] That enhancement of this cultural and artistic component will contribute to the continued welfare and revitalization of the downtown district to the benefit of both the private and public sectors;
- [4.] That the integration of publicly visible works of art into private development projects will strengthen the downtown as the cultural center of the city by incorporating the arts into the urban environment;
- [5.] That the City Council wishes to promote these goals by encouraging collaboration between developers, artists, architects, landscape architects, engineers and other project planners, and by providing a means to finance art works and cultural facilities and programs in key public areas in the downtown [district];
- [6.] That a developer of a planned block development in the downtown district is afforded certain incentives and bonuses not available to developers of similar projects.

B. Definitions.

1. *Art in public places program.* The program established pursuant to the provisions of Scottsdale Revised Code section 20-121 and 20-121.1 providing for the selection and installation of original works of art in public places within the City of Scottsdale.
2. *Art work or works of art.* All forms of limited edition or one-of-a-kind original creations of visual art created by an artist.

An original work of art, shall not include any of the following, unless specifically allowed by the Scottsdale Cultural Council. Directional elements such as supergraphics, signage or color coding except where these elements are integral parts of the original works of art; art objects which are mass-produced of standard design such as playground equipment, fountains or statuary objects; reproduction by mechanical or other means of original works of art; decorative, ornamental or functional elements created by the project architect instead of an artist commissioned for this purpose; landscape architecture or gardening except for elements designed by the artist as an integral part of the work of art; electrical, water or mechanical service for activation of the works of art; art exhibitions and educational activities; security and publicity concerning works of art, architects fees, land costs.

3. *Artist.* A practitioner in the visual arts, generally recognized by his or her critics and peers as a professional possessing serious artistic intent and ability.

4. *Building valuation.* The building valuation as determined by the development services director or his or her designee, based on the building valuation data published by the International Conference of Building Officials, and noted on the building permits. For purposes of this ordinance only, calculation of building valuation shall not include public improvements square footage, residential uses other than hotel, or hospitals as defined in section 3.100 of the zoning ordinance.
5. *Cultural trust fund.* The separate fund into which shall be placed only the monies received pursuant to this ordinance. This fund may be used only for the purposes authorized by this ordinance.
6. *Planned block development.* A plan for a large parcel area which may include multiple ownerships, allowing flexibility in certain development standards, and subject to specific review, all as provided in section 5.3082, et seq., of the Scottsdale Zoning Ordinance.
7. *Public improvements square footage.* Square footage which is attributable to a special public improvement constructed pursuant to section 5.3090(C)(4) of the zoning ordinance, for which the developer received bonus floor area.
8. *Scottsdale Cultural Council.* The entity, and any successor, designated by the City Council to administer the art in public places program.
9. *Visual arts professional.* An artist, art educator, art critic, art administrator, designer, art historian, art museum curator or director or fine art collector, who is well respected in his or her field, and recognized by his or her peers as being knowledgeable in regard to visual art.

C. *Imposition of percent for arts obligation.*

1. In a planned block development (PBD) in the downtown district, original works of art costing a minimum of one (1) percent of the building valuation shall be installed and maintained in accordance with the provisions of this ordinance, and the art in public places program.

The cost of the art work may include: Structures which enable the display of art work(s); expenses incurred within the artist's budget to cover professional fees for the artist(s); labor of assistants; materials and contracted services required for the production and installation of the work(s) of art; travel expenses of the artist for site visitation and research; transportation of the work of art to the site; site preparation for art work installation; and other installation costs of the completed art work.

2. The artists and art work shall be selected by one of the following procedures, at the option of the developer:
 - a. The developer may select a visual arts professional to act as a consultant. The visual arts professional will aid the developer in selecting the artist and the art work, in accordance with the guidelines set forth in this ordinance; or
 - b. The developer may utilize the resources and services of the Scottsdale Cultural Council in selecting the artist and/or art work, in accordance with procedures and guidelines established by the entity.
3. Original art work is to be placed within the PBD, on a site which takes into account the following: Unobstructed public viewing and accessibility; public safety; interior and exterior use patterns which are consistent with existing or future architectural and natural features; and primary uses of the building, and relationship of the proposed art work to existing art works within the site or area. Art work should be placed where visible from the street, or in exterior spaces such as walkways, plazas, and exterior building surfaces.

D. *In-lieu fee.* The developer of a PBD may pay an amount equal to one (1) percent of the building valuation or any portion of the obligation not used on site, into the cultural trust fund, in lieu of installing original art work in the PBD. Such amount shall be disbursed in accordance with the provisions of the art in public places program, provided that art work purchased with monies deposited in the cultural trust fund, shall be placed only in the downtown district.

E. *Cultural trust fund.* There is hereby established a cultural trust fund (CTF), into which shall be deposited all sums collected pursuant to the provisions of this ordinance. The CTF shall be used exclusively for the purposes and through the processes set forth in this ordinance, and in the art in public places program.

F. *Project completion.*

1. A preliminary art plan and schematic design which identifies location, type and approximate scale of

the art work shall be submitted to the planning and zoning department prior to Development Review Board approval of the development project.

The Scottsdale Cultural Council will review the developer's proposed public art plan prior to Development Review Board for consistency with the public art master plan and make a written nonbinding recommendation to the Development Review Board, providing a copy to the developer.

2. A final art plan and design consisting of appropriate drawings and models shall be submitted to the planning and zoning department at or before the submission of final construction drawings.

3. On site art work must be installed by the artist, and the visual arts professional or the Scottsdale Cultural Council must certify that the requirements of this ordinance have been met, and/or the in-lieu fee must be deposited, before a certificate of occupancy will be issued for the project. Certification shall be by the Scottsdale Cultural Council only when the developer has opted not to employ a visual arts professional, and has chosen to select the artist as provided in section C(2)(b) of this ordinance.

The certification shall include: (1) a statement that the art work, artist and site meet the criteria established by this ordinance, (2) the date on which the installation or deposit was completed, and (3) an itemized account of the expenses incurred by the developer in fulfilling the requirements of this ordinance.

G. *Exemptions.* This ordinance shall not apply to:

- (1) Those portions of a planned block development for which a building permit has been issued prior to the effective date;
- (2) Individual tenant improvements; or
- (3) Alterations and reconstruction less than thirty thousand (30,000) square feet.

H. *General provisions.*

1. The fee imposed by this ordinance shall be in addition to and supplemental to all other fees imposed by the city.
2. If any provision of this ordinance is held invalid, such invalidity shall not affect other provisions which can be given effect without the valid provision. To this end, the provisions of this ordinance are declared to be severable.

(Ord. No. 2018, 6-21-88; Ord. No. 2301, § 1, 7-17-90; Ord. No. 3225, § 1, 5-4-99)

Cross references: Public library, § 20-16 et seq.; center for the arts, § 20-71 et seq.; Scottsdale Mall, § 20-106 et seq.

Sec. 5.3090. Bonus/incentive provisions.

A. *Purpose:* The bonus provisions make available incentives for private sector participation in pursuing specifically identified downtown objectives. Bonuses are available for: Underground or off-site parking, historic preservation, residential land use, contribution of special public improvements, and PBD projects (refer to schedule B). Bonuses are available in two (2) forms:

1. Increased building intensity *via* floor area ratio (FAR) bonuses.
2. Additional Building Height: Reserved for residential uses, hotel/resort uses and PBD projects.

B. *Applications:* An application for bonus floor area shall be submitted with the application for development review, and shall include appropriate documents and identify features of the project that qualify for the bonus floor area.

C. *Computation of bonus floor area or bonus FAR:*

1. A FAR bonus for underground and on-site structure parking may be permitted pursuant to section 9.108.C.3.
2. Historic Preservation: On a site within the D district that is also zoned (HP) historic property, a bonus floor area equal to twice that of the existing historic structure may be transferred to any other site in the D district. The floor area transferred shall not exceed an FAR of two-tenths for the receiving property. An instrument satisfactory to the city attorney shall be recorded specifying the amount of bonus floor area transferred from the historic property site and the remaining amount not transferred,

and ensuring permanent maintenance of the exterior appearance of the historic property as seen from public streets.

3. Residential Space: The bonus shall equal the total residential floor area on the site, determined on the basis of space used for dwelling units, but shall not exceed the maximum permitted by the FAR ratios in section 5.3060, schedule B. In large projects with bonus floor area for residential space, each phase of construction must contain an equal proportion of residential space, unless the project review director finds that requirement is infeasible because of the building design. The residential height and floor area ratio bonuses shall not apply to specialized health care facilities and minimal health care facilities.

4. Special Public Improvements: Bonus floor area, not to exceed a three-tenths FAR, may be awarded to a project by City Council at its discretion for contributions to a special downtown improvement fund, or for dedication of land and construction of improvements in excess of those required of similarly situated properties. The bonus floor area shall be the cost the contribution divided by the per square foot value of the project's land as determined by the city. At its discretion, the city may commission one (1) or more fair market appraisals, to be paid for by the contributor, to assist in estimating the per square foot value of the project's land.

5. Planned Block Development: A FAR bonus not to exceed one-tenth will be provided for participation in a planned block development, pursuant to section 5.3082.

(Ord. No. 1796, 11-5-85; Ord. No. 1992, § 1, 1-5-88; Ord. No. 2736, § 1, 3-7-95; Ord. No. 3225, § 1, 5-4-99)